



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,336	04/20/2001	Francis M. Anton, Jr.	VB.HEREUR.PT2	1893

24943 7590 03/07/2007
INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

EXAMINER

DAO, THUY CHAN

ART UNIT	PAPER NUMBER
----------	--------------

2192

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/839,336

Applicant(s)

ANTON, JR., FRANCIS M.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Claims 1-24 have been examined.

Specification

3. The specification is objected to because of minor informalities. In page 22, line 21, "*network 157*" should be - -network 151- -.

Appropriate correction is required.

Response to Amendments

4. Per Applicants' request, claims 1-3, 6, 8, 14, 16-18, 22, and 24 have been amended.

Response to Arguments

5. The Applicant is thanked for a thorough reply. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections – 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 2192

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication No. 2002/0083432 A1 to Souissi et al. (art made of record, hereinafter "Souissi").

Claim 1:

Souissi discloses *a system for software maintenance of a wireless Internet access device, said system comprising:*

an access point device for making a wireless connection between a mobile computer and a communications network (e.g., FIG. 3, [0027], a wireless radio frequency RF modem 300), said device including

a memory of software containing first device management software for providing a device management function (e.g., FIG. 3, [0030], Flash Memory and SRAM 335 containing an operating software; page 1, [0011], device management software for said wireless RF modem); and

software loading apparatus for loading second software through said network for replacing said first software (e.g., FIG. 3, [0030], a loader program for loading an operating software update for replacing said operating software; [0012] and [0015], software loading apparatus at a service provider).

Claim 2:

The rejection of claim 1 is incorporated. Souissi also discloses *a server including apparatus for receiving data input from a computer for installation and storing said second software for said loading by said software loading apparatus through said network (e.g., [0015]).*

Claim 3:

The rejection of claim 2 is incorporated. Souissi also discloses *version checker apparatus for checking a version of said second software, and wherein said software*

Art Unit: 2192

loading apparatus loads said second software if a version of said second software is different from a version of said first software (e.g., [0009] and [0014]).

Claim 4:

The rejection of claim 3 is incorporated. Souissi also discloses *first authentication apparatus for authenticating an identity of said server to said device (e.g., FIG. 4, block 420, [0033]).*

Claim 5:

The rejection of claim 4 is incorporated. Souissi also discloses *second authentication apparatus for authenticating an identity of said device to said server (e.g., FIG. 4, block 450, [0034]).*

Claim 6:

The rejection of claim 3 is incorporated. Souissi also discloses *automatic apparatus for automatically performing said checking and said loading at a preset time point (e.g., FIG. 4, blocks 455 and 490, [0035]).*

Claim 7:

The rejection of claim 6 is incorporated. Souissi also discloses *shut-down apparatus for stopping an acceptance of new connections prior to said loading (e.g., FIG. 4, [0036-0037], blocks 470-480-485-460).*

Claim 8:

The rejection of claim 1 is incorporated. Souissi also discloses *said loading is performed automatically at a preset time point (e.g., FIG. 4, blocks 455 and 490, [0035]).*

Claim 9:

Souissi discloses *a method of maintaining software on a wireless network access device, said method comprising:*

first storing a first device management software in a memory in said device (e.g., FIG. 3, [0030], Flash Memory and SRAM 335 containing an operating software; page 1, [0011], device management software for said wireless RF modem); and

loading a second device management software through said network for replacing said first software (e.g., FIG. 3, [0030], a loader program for loading an operating software update for replacing said operating software; [0012] and [0015], software loading apparatus at a service provider).

Claim 10:

The rejection of claim 9 is incorporated. Souissi also discloses *inputting upgrade data to a server from a computer, said data for installing and storing said second device management software in said server (e.g., [0014-0015]).*

Claim 11:

The rejection of claim 10 is incorporated. Souissi also discloses *checking a version of said second software, and wherein said loading is performed if said second software is a different version from said first software (e.g., [0009-0014]).*

Claim 12:

The rejection of claim 11 is incorporated. Souissi also discloses *first authenticating an identity of said server to said device (e.g., FIG. 4, block 420, [0033]).*

Claim 13:

The rejection of claim 12 is incorporated. Souissi also discloses *second authenticating an identity of said device to said server (e.g., FIG. 4, [0034], block 450).*

Claim 14:

The rejection of claim 11 is incorporated. Souissi also discloses *automatically performing said checking and said loading at a preset time point* (e.g., FIG. 4, [0035], blocks 455 and 490).

Claim 15:

The rejection of claim 14 is incorporated. Souissi also discloses *stopping an acceptance of a new connection prior to said loading* (e.g., FIG. 4, [0036-0037], blocks 470-480-485-460).

Claim 16:

The rejection of claim 9 is incorporated. Souissi also discloses *automatically performing said loading at a preset time* (e.g., FIG. 4, [0035], blocks 455 and 490).

Claim 17:

Souissi discloses a system providing Internet access comprising:

an access point device for making a wireless connection between a mobile user and a source network (e.g., FIG. 3, [0027] and [0011], an wireless radio frequency RF modem), *said access point device including*

first device management software for providing a device management function; access device loading apparatus for loading second device management software through a network for replacing said first software (e.g., FIG. 3, [0030] and [0012]);

authorization server apparatus for authorizing a mobile user to access the Internet through said access point device and said source network (e.g., FIG. 4, [0033-0034], block 420 and 450); and

remote maintenance server apparatus including apparatus for receiving and storing an upgrade to said first software from a network connected computer for creation of said second software, and for facilitating said loading in cooperation with said access point device (e.g., [0014-0015], service provider receiving and storing an operating software update for said wireless RF modem).

Claim 18:

The rejection of claim 17 is incorporated. Souissi also discloses *said authorization server apparatus includes*

source network server apparatus including apparatus for receiving a request from said mobile user to access said Internet, and for determining if said mobile user is currently authorized to access the Internet, and if so to allow said authorized mobile user said access, and if not to forward said request; redirection server apparatus for receiving from said source server said forwarded request by said unauthorized mobile user for Internet access, and for redirecting said request (e.g., FIG. 4, [0033-0035]); and

user authentication server apparatus for receiving said unauthorized user's request from said redirection server, and for authorizing said unauthorized mobile user to access said Internet; and gate keeper server apparatus for receiving an authorization from said authentication server and for informing said source network apparatus that said mobile user is to be allowed access to said Internet (e.g., FIG. 4, [0036-0040]).

Claim 19:

The rejection of claim 17 is incorporated. Souissi also discloses *said access point device further includes version checker apparatus for checking a version of said second software, and wherein said loading apparatus loads said second software if a version of said second software is different from a version of said first software (e.g., [0009] and [0014]).*

Claim 20:

The rejection of claim 19 is incorporated. Souissi also discloses *first authentication apparatus for authenticating an identity of said remote maintenance server to said access point device (e.g., FIG. 4, block 420, [0033]).*

Claim 21:

The rejection of claim 20 is incorporated. Souissi also discloses *second authentication apparatus for authenticating an identity of said access point device to said remote maintenance server* (e.g., FIG. 4, block 450, [0034]).

Claim 22:

The rejection of claim 19 is incorporated. Souissi also discloses *apparatus for automatically performing said checking and said loading at a preset time point* (e.g., FIG. 4, [0035], blocks 455 and 490).

Claim 23:

The rejection of claim 22 is incorporated. Souissi also discloses *shut-down apparatus for stopping an acceptance of new connections prior to said loading* (e.g., [0036-0037]).

Claim 24:

The rejection of claim 17 is incorporated. Souissi also discloses *said loading is performed automatically at a preset time point* (e.g., [0035]).

8. Claims 1, 9, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,690,655 to Miner et al. (art made of record, hereinafter "Miner"):

Claim 1:

Miner discloses *a system for software maintenance of a wireless Internet access device, said system comprising:*

an access point device for making a wireless connection between a mobile computer and a communications network (e.g., FIG. 2, col.4: 45-64, remote interface units RIU 209-210 with wireless link), *said device including*

a memory of software containing first device management software for providing a device management function (e.g., col.11: 42-59); *and*

software loading apparatus for loading second software through said network for replacing said first software (e.g., FIG. 2, col.4: 45-53, col.11: 50-59, network control facility 205 for loading second software for replacing first software at RIU 209-210).

Claim 9:

Miner discloses a method of maintaining software on a wireless network access device, said method comprising:

first storing a first device management software in a memory in said device (e.g., FIG. 4, col.6: 42-64, col.10: 30-45, device management software in remote interface units RIU 209-210); and

loading a second device management software through said network for replacing said first software (e.g., FIG. 2, col.4: 45-53, network control facility 205 loading software updates; col.11: 42-59; col.20: 30-40).

Claim 17:

Miner discloses a system providing Internet access comprising:

an access point device for making a wireless connection between a mobile user and a source network (e.g., FIG. 2, col.4: 45-65, RIU 209-210), said access point device including

first device management software for providing a device management function; access device loading apparatus for loading second device management software through a network for replacing said first software (e.g., FIG. 2, col.4: 45-53, col.11: 50-59, network control facility 205 and software updates for RIU 209-210);

authorization server apparatus for authorizing a mobile user to access the Internet through said access point device and said source network (e.g., FIG. 6, col.17: 60 – col.18: 11, block 603; col.18: 43-61, block 613); and

remote maintenance server apparatus including apparatus for receiving and storing an upgrade to said first software from a network connected computer for creation of said second software, and for facilitating said loading in cooperation with

Art Unit: 2192

said access point device (e.g., FIG. 4, col.6: 42-64; col.10: 30-45; col.11: 42-59; col.20: 30-40).

Conclusion

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:00AM to 4:30PM.

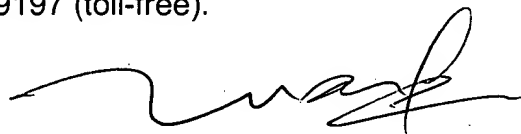
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN Q. DAM
SUPERVISOR